STATE OF MINNESOTA
IN COURT OF APPEALS
A17-1171

In the Matter of the Welfare of the Child of: V. V. B. and I. I. L., Parents.

Filed January 22, 2018
Affirmed
Reyes, Judge

Anoka County District Court
File No. 02-JV-17-278

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Considered and decided by Reyes, Presiding Judge; Peterson, Judge; and Bjorkman, Judge.

U N P U B L I S H E D O P I N I O N

REYES, Judge

In this appeal challenging the district court's termination of her parental rights, mother argues that the statutory grounds for termination are not supported by clear and convincing evidence. We affirm.

FACTS

Appellant V.V.B. (mother) is the mother of C.L., who was born in 2006. Mother married I.L.L. (father) in 2002, but they divorced in 2010 following father's arrest for promoting prostitution of mother and endangering C.L. by having a loaded gun in C.L.'s closet. Following the divorce, mother obtained sole physical custody of C.L., and father was awarded supervised parenting time.

In January 2016, mother was placed on a 72-hour psychiatric hold after she brought C.L. to a hospital claiming that she and C.L. had been sexually assaulted. Mother also claimed that C.L. had had a microchip implanted in her and had been poisoned. Testing revealed these claims to be false. During the hold, mother denied that she had mental illness, refused medication, and claimed she was sexually assaulted again while she was staying at the hospital. In April 2016, mother brought C.L. to the hospital to treat C.L.'s sore throat and stomachache, which C.L. had been suffering from for a long time. The hospital diagnosed C.L. with strep throat and mononucleosis and prescribed medicine. A few days later, mother again brought C.L. to the hospital, alleging that "squatters at home" had been raping her and C.L. on a daily basis. Hospital staff promptly transported C.L. to a children's hospital for a sexual-assault examination and reported the allegations to Anoka County Social Services (the county). Upon receiving this report, the county assigned the case to a social worker.

The social worker contacted mother and father. During a phone call with the social worker, mother denied her mental illness, refused to talk with the social worker, and hung up. Father, in contrast, expressed his concern for C.L.'s academic struggles and living

conditions. The social worker visited C.L.'s school and heard from her teachers that C.L. was falling behind academically and that mother refused to let C.L. receive special-education services. The social worker also talked to C.L. During the conversation, C.L. broke down, started crying, and acknowledged mother's odd behavior.

A few days later, mother was transported to the emergency room after she reported to the police that she was raped. After examining her, the hospital staff again placed her on a 72-hour psychiatric hold. She was diagnosed with delusional disorder and psychosis, but was discharged after adamantly refusing all medical services. After her discharge, father filed an Order for Protection (OFP) on behalf of C.L. The court granted an ex parte OFP for one week in duration, which was dismissed thereafter. However, even after the dismissal of the ex parte OFP, C.L. remained in father's care because C.L. stated she felt safer at father's house. Meanwhile, mother continued to deny her need for mental-health services to the social worker.

On June 6, 2016, the county filed a child in need of protection and services (CHIPS) petition, which mother contested. The case was transferred to a different social worker, who developed a case plan recommending that mother complete psychological and psychiatric evaluations and participate in individual or family therapy. The social worker submitted the case plan to the district court on the CHIPS trial date. However, mother did not appear, and the district court granted the CHIPS petition by default. The county placed C.L. in foster care on October 12, 2016, and the social worker submitted an updated case plan to the district court. The updated case plan prescribed additional requirements for mother, including completion of a urine test and a parenting assessment. Despite the

district court's order for mother's compliance with the updated case plan, she did not satisfy any of its requirements. Mother did not submit any urinalysis specimens, refused to sign releases permitting the county's referral to a parenting assessment, and refused to visit C.L. in foster care under supervision. The social worker attempted to contact mother multiple times, including calling her at least once a month, setting meetings before and after the court hearings, visiting her house, and sending her letters. Most of the social worker's attempts failed. When the social worker successfully connected with mother, mother adamantly refused to cooperate. The social worker also worked with C.L., who has been happy and thriving in foster care.

The county filed a petition for termination of parental rights (TPR) on February 24, 2017. The district court terminated father's parental rights after he voluntarily agreed to it. Following a TPR hearing on June 14, 2017, the district court terminated mother's parental rights to C.L. In its thorough findings of facts, conclusions of law, and order filed on July 10, 2017, the district court found that there was clear and convincing evidence of two statutory grounds supporting the TPR under Minn. Stat. § 260C.301, subds. 1(b)(5) and (8) (2016). The district court also found that the county had made reasonable efforts toward reunification of C.L. with mother and determined that the TPR was in C.L.'s best interests. On appeal, mother challenges only the adequacy of the evidentiary support for the statutory bases for the TPR.

D E C I S I O N

I. The district court did not abuse its discretion when it terminated mother's parental rights because its statutory determination is supported by clear and convincing evidence.

Mother argues that the statutory grounds for the TPR are not supported by clear and convincing evidence. We disagree.

A district court may terminate parental rights if clear and convincing evidence establishes at least one statutory ground for termination and if termination is in the child's best interests. *In re Welfare of Child of R.D.L.*, 853 N.W.2d 127, 137 (Minn. 2014). On appeal, we review the district court's findings of fact for clear error. *In re Welfare of Children of S.E.P.*, 744 N.W.2d 381, 385 (Minn. 2008). "A finding is clearly erroneous if it is either manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole." *In re Welfare of Children of T.R.*, 750 N.W.2d 656, 660-61 (Minn. 2008) (quotation omitted). "Nevertheless, [an appellate court] defer[s] to the district court's decision to terminate parental rights." *Id.* at 661. But we review the ultimate determination that the findings fit the statutory criteria for an abuse of discretion. *In re Welfare of Children of J.R.B.*, 805 N.W.2d 895, 901 (Minn. App. 2011), *review denied* (Minn. Jan. 6, 2012).

A district court may terminate parental rights if clear and convincing evidence establishes that, "following the child's placement out of home, reasonable efforts, under the direction of the court, have failed to correct the conditions leading to the child's

placement." Minn. Stat. § 260C.301, subd. 1(b)(5).[1] Here, the district court took judicial notice of the conditions leading to the child's out-of-home placement as stated in the CHIPS petition. The CHIPS petition noted that C.L. was a child in need of protection or services due to the combination of mother's serious mental-health issues and the detrimental educational and mental effect those issues have on C.L. The district court further found that the county made reasonable efforts, under the direction of the court, to correct these conditions by developing and attempting to work on a case plan with mother. The district court also found that mother refused to cooperate with the county to correct the conditions that led to C.L.'s out-of-home placement. On this record, these findings are not clearly erroneous. Further, these findings satisfy the statutory criteria of subdivision 1(b)(5). Therefore, the district court did not abuse its discretion by ruling that reasonable efforts have failed to correct the conditions leading to the child's out-of-home placement.

The district court's finding that the county made reasonable efforts under the direction of the court to correct the conditions that led to C.L.'s out-of-home placement is also supported by clear and convincing evidence. The hospital records show that mother had serious mental-health issues that led to the out-of-home placement of C.L. The social workers testified that the county made reasonable efforts to correct these conditions when

[1] The district court may presume that reasonable efforts have failed upon a showing of several conditions. *See* Minn. Stat. § 260C. 301, subd. 1(b)(5). If a child not younger than age eight has resided out of the parental home under court order for a cumulative period of 12 months within the preceding 22 months, the presumption applies. *Id.* subd. 1(b)(5)(i). Here, the presumption does not apply as the district court made a specific finding that "C.L. has been in court-ordered out-of-home placement for just shy of 12 months or 349 days." Nevertheless, § 260 C. 301, subd. 1(b)(5), further provides that the court can still terminate parental rights prior to one year.

it developed and submitted the case plan and attempted to contact mother on numerous occasions to facilitate her compliance.

The record further supports by clear and convincing evidence the district court's finding that mother refused to cooperate with the county to correct the conditions that led to C.L.'s out-of-home placement. Mother failed to satisfy any of the case plan's requirements that she work on her mental health, chemical health, parenting skills, and ability to meet C.L.'s needs. The social worker who developed the case plan testified that mother neither completed a psychological and psychiatric evaluation nor participated in counseling, which were required to improve mother's mental health. Mother did not provide a urinalysis specimen, even after having been specifically ordered to do so by the district court. As a result, the county could not verify whether mother had any substance-abuse issues. Mother did not complete a parenting assessment and did not sign a release allowing the county to make referrals for her to participate in services, both of which were required to satisfy the requirements that mother improve her parenting skills. Mother avoided the county's efforts to contact her when she failed to appear at scheduled meetings and declined to answer her phone when the county called her.

Mother argues that evidence supporting the TPR under subdivision 1(b)(5) is not clear and convincing because she submitted negative urinalysis specimens to her medical appointment and mental-health facilities, which indicated that she does not have any substance-abuse issues. She also argues she was diligent in caring for C.L. as evidenced by their visit to the hospital to treat C.L.'s strep throat and mononucleosis, which demonstrates that a parental assessment was not necessary. Both arguments lack merit.

First, the submission of negative urinalysis specimens to medical institutions was independent of the case plan developed by the county and occurred six months before its submission to the district court. Second, C.L.'s one appropriate hospital visit, to treat symptoms which C.L. had been suffering from for a long time, was followed by several other visits to the hospital where mother claimed that she and C.L. were both sexually assaulted.

In light of mother's noncompliance with her case plan and her avoidance of the county's contact, when compliance and contact were both part of the agency's reasonable efforts to correct the conditions that led to the child's out-of-home placement, we conclude that the district court did not abuse its discretion when it terminated mother's parental rights to C.L. under Minn. Stat. § 260C.301, subd. 1(b)(5), because its decision was supported by clear and convincing evidence.[2]

Affirmed.

[2] Because we conclude that this statutory ground is met, we need not consider the other statutory ground relied upon by the district court. *In re Welfare of Child of J.K.T.* 814 N.W.2d 76, 92 (Minn. App. 2012).